

PATENT COOPERATION TREATY



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2001.0151PWO	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/DE2003/003572	International filing date (day/month/year) 27 October 2003 (27.10.2003)	Priority date (day/month/year) 25 October 2002 (25.10.2002)
International Patent Classification (IPC) or national classification and IPC A61B 6/14		
Applicant SIRONA DENTAL SYSTEMS GMBH		

<p>1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p><input checked="" type="checkbox"/> This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).</p> <p>These annexes consist of a total of <u>1</u> sheets.</p> <p>3. This report contains indications relating to the following items:</p> <ul style="list-style-type: none"> I <input checked="" type="checkbox"/> Basis of the report II <input type="checkbox"/> Priority III <input type="checkbox"/> Non-establishment of opinion with regard to novelty, inventive step and industrial applicability IV <input type="checkbox"/> Lack of unity of invention V <input checked="" type="checkbox"/> Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement VI <input type="checkbox"/> Certain documents cited VII <input type="checkbox"/> Certain defects in the international application VIII <input type="checkbox"/> Certain observations on the international application
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Date of submission of the demand 30 April 2004 (30.04.2004)	Date of completion of this report 23 September 2004 (23.09.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/DE2003/003572

I. Basis of the report

1. With regard to the elements of the international application:*

 the international application as originally filed the description:

pages 1-11, as originally filed

pages _____, filed with the demand

pages _____, filed with the letter of _____

 the claims:

pages 6-16, as originally filed

pages _____, as amended (together with any statement under Article 19)

pages _____, filed with the demand

pages 1-5, filed with the letter of 07 September 2004 (07.09.2004)

 the drawings:

pages 1/3-3/3, as originally filed

pages _____, filed with the demand

pages _____, filed with the letter of _____

 the sequence listing part of the description:

pages _____, as originally filed

pages _____, filed with the demand

pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language _____ which is:

 the language of a translation furnished for the purposes of international search (under Rule 23.1(b)). the language of publication of the international application (under Rule 48.3(b)). the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

 contained in the international application in written form. filed together with the international application in computer readable form. furnished subsequently to this Authority in written form. furnished subsequently to this Authority in computer readable form. The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished. The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.4. The amendments have resulted in the cancellation of: the description, pages _____ the claims, Nos. _____ the drawings, sheets/fig _____5. This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

Internal application No.
PCT/DE 03/03572

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	YES
	Claims	1, 3, 9-11, 13 NO
Inventive step (IS)	Claims	YES
	Claims	2, 4-8, 12, 14-16 NO
Industrial applicability (IA)	Claims	All YES
	Claims	NO

2. Citations and explanations

Reference is made to the following documents:

D1: US-B-6 424 694

D2: US-A-6 118 842

1. The subject matter of **claim 1** lacks novelty (PCT Article 33(2)). The reasons for this are as follows:

Document D1 discloses a bite block (10) that can be used to ensure correct positioning of a patient during the taking of an X-ray with panoramic X-ray equipment (see abstract and figure 1),

- (a) with a holder (11) that can be directionally fixed relative to the X-ray apparatus,
- (b) and with an arm (13) that can be pivoted towards the holder and has a bite element (14) on which the patient bites; also with means, namely scales, for recording the pivot angle between the arm and the holder, which is correlated to the angle of inclination of the occlusal plane, said means being mounted in a part of the bite block that is radiation-free when an X-ray is being taken (see in particular column 3, lines 7 to 18; column 4, lines 58 to 61; column 5, lines 45 to 47; and figures 5, 5a, 7, 8, 8a and 8b).

The following points are noted:

The abstract in D1 explicitly states that the bite block can be used with panoramic X-ray equipment. The description in D1 explicitly states (column 5, lines 45 to 47) that scales ("indicia 100") are provided for all possible adjustment positions; in other words, this includes the adjustment position of the pivot angle between the arm and the holder, which is correlated to the angle of inclination of the occlusal plane, as shown in figures 8, 8a and 8b. Figure 7 clearly shows that panoramic X-rays can be taken of the upper part of the head (for example) without the bite block 10 or any scales on it being in the X-ray path.

Thus all the features of **claim 1** are known from D1.

2. Dependent **claims 2 to 16** do not contain any features that meet the PCT requirements in respect of novelty and inventive step when combined with the features of any of the back-referenced claims (PCT Article 33(2) and (3)). The reasons for this are as follows:

2.1 **Claims 2 and 4 to 6:**

The device described in document D2 includes automatic positioning means (see in particular column 7, line 53 to column 8, line 6; column 12, lines 42 to 45; and column 16, lines 26 to 31), the incorporation of which in a device as known from D1 is considered obvious. The automatic positioning means necessarily require the presence of the features specified in **claims 2, 4 and 5**. The additional features specified in **claim 6** are design details which cannot be regarded as inventive.

2.2 The additional features specified in **claims 3 and 7 to 16** either are known from D1 (**claims 3, 9 to 11 and 13**) or are standard measures or design features (**claims 7, 8, 12 and 14 to 16**) which cannot be regarded as establishing an inventive step on account of the lack of a surprising or unexpected effect.